

BEFORE THE CONTRACTORS BOARD

STATE OF IDAHO

In the Matter of the Registration of:)	
)	Case No. CON-2010-24
PRESTON GOLD,)	
Registration No. RCT-16223,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
Respondent.)	FINAL ORDER
)	

Having reviewed the Complaint and other documents in this matter, the Idaho State Contractors Board (hereinafter "Board") hereby enters the following Findings of Fact, Conclusions of Law, and Final Order:

FINDINGS OF FACT

1. Preston Gold (hereinafter "Respondent") is registered by the Board under Registration No. RCT-16223 to engage in the practice of contracting. Respondent's registration expired on February 4, 2010, and Respondent's registration was canceled as of February 5, 2010. Respondent has not renewed his registration; however, pursuant to Idaho Code § 67-2614, Respondent retains the right to renew his registration for up to five (5) years after cancellation by paying the required fees.

2. On March 18, 2010, a formal administrative Complaint was filed in this matter with the Board. Said Complaint is expressly incorporated herein and made a part hereof.

3. Copies of the Complaint, along with the Notification of Procedural Rights, were sent to Respondent on March 18, 2010 by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent at his most recent home address on file with the Board, as follows:

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Preston Gold
468800 Highway 95
Space #13
Sagle, ID 83860

4. The certified mail was returned to the sending office with the notation “unclaimed” by the post office, and the envelope containing a copy of the Complaint which was sent to Respondent by regular mail was not returned to the sending office.

5. The Notification of Procedural Rights informed Respondent that, under statutes and rules applicable to such proceedings before the Board, Respondent needed to file a formal Answer to the Complaint within twenty-one (21) days of service of the Complaint and that failure to timely file an Answer to the Complaint or otherwise defend against the action would constitute a default and would be sufficient grounds for proceeding administratively against Respondent’s registration without the necessity of conducting a hearing.

6. On April 16, 2010, a Notice of Intent to Take Default and proposed Default Order, along with a Notification of Procedural Rights, were sent to Respondent by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail, at the following address:

Preston Gold
468800 Highway 95
Space #13
Sagle, ID 83860

7. Respondent failed to contest entry of the proposed Default Order within seven (7) days of service of the Notice of Proposed Default Order.

8. On May 6, 2010, a Default Order was issued in this matter by Karl T. Klein, the Board’s advisory counsel. Therefore, the allegations contained in the Complaint on file in this matter are admitted as true without the necessity of conducting a hearing.

9. As detailed in the incorporated Complaint, Respondent, while a registered

contractor, failed to maintain general liability insurance while registered as a contractor.

CONCLUSIONS OF LAW

1. As a registered contractor in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of title 54, chapter 52, Idaho Code. The Board is empowered by Idaho Code § 54-5206 to administer the Idaho Contractor Registration Act (hereinafter "Act") codified at title 54, chapter 52, Idaho Code.

2. The Complaint was sent to Respondent at the address on file with the Board. Respondent was duly and lawfully given notice of proceedings against his registration pursuant to the provisions of IDAPA 04.11.01.055.

3. Respondent's failure to plead or otherwise defend in this action authorizes the Board, pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.700, to enter an Order of Default which is as lawful as if all the allegations in the Complaint were proved or admitted at a hearing.

4. Respondent's acts as described in the Complaint constitute grounds for discipline against Respondent's registration to practice contracting under the laws governing the practice of contracting in the State of Idaho, specifically Idaho Code §§ 54-5210(1)(e) and 54-5215(2)(a).

ORDER

THIS MATTER is before the Board pursuant to the Default Order issued after Respondent failed to answer or appear in this matter. The factual allegations set forth in the Complaint against Respondent are deemed true and therefore, no formal hearing was held.

NOW, THEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, and good cause being shown, Respondent's actions constitute a violation of Idaho Code §§ 54-5210(1)(e) and 54-5215(2)(a) and it is hereby ordered as follows:

1. Respondent's renewal rights are REVOKED effective immediately.
2. Respondent shall pay a fine in the amount of One Thousand Dollars

(\$1,000.00). The fine shall be paid within sixty (60) days from the date of this Order.

3. Respondent shall pay the costs and attorney fees incurred by the State. The State shall submit an Affidavit of Costs and Attorney Fees incurred in this matter within forty-five (45) days of the date of this Order. Respondent shall submit any objection to the costs and fees submitted by the State and request a hearing within thirty (30) days from the date on which the State serves its Affidavit. Thereafter, the Board shall determine the amount of costs and fees awarded against Respondent, and in the event Respondent fails to object to the costs and fees claimed by the State, Respondent shall pay the costs and fees set forth in the State's Affidavit. The Respondent shall pay the costs and fees as determined by the Board, or as set forth in this section, within ninety (90) days from the date of this Order.

4. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of contracting in the State of Idaho. In particular, Respondent shall not practice contracting in the State of Idaho without first registering with the Board and submitting proof of required insurance coverage.

5. This is the final order of the Board.

DATED this 8th day of JUNE, 2010.

IDAHO STATE
CONTRACTORS BOARD

By: 

Anthony J. Hughes, Chair

NOTICE OF DUE PROCESS RIGHTS

NOTE: THIS NOTICE IS PROVIDED SOLEY FOR COMPLIANCE WITH IDAHO CODE § 67-5248, AND IS NOT INTENDED TO REINSTATE ANY RIGHTS PREVIOUSLY WAIVED BY RESPONDENT.

This is a final order of the Board. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Board will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- a. A hearing was held,
- b. The final Board action was taken,
- c. The party seeking review of the order, resides, or
- d. The real property or personal property that was the subject of the Board action is located.

An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

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CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on this 8th day of June, 2010, I caused to be served a true and correct copy of the foregoing by the following method to:

Preston Gold
468800 Highway 95
Space #13
Sagle, ID 83860

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____

Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Tana Cory, Chief
Bureau of Occupational Licenses